

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54154 of 2013

Arising Out of PS.Case No. -101 Year- 2009 Thana -BHANGWANPUR HAT District- SIWAN

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Jai Prakash Singh S/O Jamuna Singh Resident Of Village- Dhorpur, P.S-
Bhagwanpur, District- Siwan.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Jitendra Tiwari S/O Late Daroga Tiwari Resident Of Village- Dhorpur, P.S-
Bhagwanpur, District- Siwan.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh, Adv

For the Opposite Party/s : Mr. Ashok Kumar, Adv

For the State : Mr. Dr. Rabindra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date: 09-05-2017

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 15.03.2013, passed by the Chief Judicial Magistrate, Siwan in Bhagwanpur P.S. Case No. 101 of 2009, wherein cognizance has been taken against the petitioner under Section 302 of the Indian Penal Code.

It has been submitted on behalf of the petitioner that the police, after investigation submitted final form in the case as false, but learned Magistrate took cognizance against this petitioner.

It has been submitted on behalf of opposite party No. 2 that there is specific allegation against this petitioner of



assaulting the deceased with sword. Several independent witnesses have also supported the case in the case diary.

From the impugned order, it appears that learned Magistrate, after looking into the case diary in detail and discussing the various paragraphs of the case diary including the postmortem report, took cognizance against this petitioner for the offences under Section 302 of the Indian Penal Code.

Learned Magistrate is only required to see prima facie case at the time of taking cognizance.

In such circumstance, this Court does not find any illegality in the impugned order dated 15.03.2013, passed by the Chief Judicial Magistrate, Siwan, in Bhagwanpur P.S. Case No. 101 of 2009, wherein cognizance has been taken against the petitioner under Section 302 of the Indian Penal Code.

This quashing application is, accordingly, dismissed.

(Sanjay Priya, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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